

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA ex.
rel. DR. MASSOOD JALLALI,

Plaintiff,

v.

NOVA SOUTHEASTERN
UNIVERSITY, INC.,

Defendant.

Civil Action No. 11-cv-08115

District Judge John F. Grady

(Pending in Southern District of Florida, Civil
Action No. 11-60342-CIV-DIMITREOULEAS)

AMERICAN OSTEOPATHIC ASSOCIATION’S OPPOSITION TO MOTION TO STAY

American Osteopathic Association (“AOA”) respectfully submits this Opposition to Dr. Jallali’s Motion to Stay Proceedings (*Docket # 20*) in this Court pending his appeal to the Seventh Circuit.

I. INTRODUCTION

Dr. Jallali’s Motion to Stay, and his contemporaneously filed Notice of Appeal (*Docket # 19*), serve only to illustrate his unflagging willingness to abuse the judicial system. The only outstanding issue in this matter is AOA’s Motion for Sanctions against Dr. Jallali and his attorney. The Court has already quashed the subpoena to AOA. No interest is served, and Dr. Jallali asserts none, by staying the resolution of the sanctions issue. AOA has fully, and at considerable expense, briefed the sanctions issue; Dr. Jallali has failed to respond. Dr. Jallali’s appeal and request to stay these proceedings force AOA to incur further expense at the hands of a serial litigant. No stay should be granted and the Court should rule on the sanctions issue in due course.

II. DISCUSSION

A. Dr. Jallali Had Ample Notice of the December 7, 2011 Hearing

Dr. Jallali complains in his Notice of Appeal, and in his related Motion to Stay Proceedings, that he was not afforded reasonable time to make arrangements to fly from Florida to Illinois for the hearing on AOA's Motion to Quash and for Sanctions. That is not the case.

AOA provided ample and more than due notice of the hearing on its Motion to Quash. On November 16, 2011, AOA noticed its Motion to Quash and for Sanctions for hearing on December 7, 2011. *Docket # 6*. That Notice reflects, on its face, service to Dr. Jallali's counsel by email and USPS mail. AOA served Dr. Jallali's counsel, Attorney Cyrus Bischoff, with its moving papers and Notice of Motion because he invoked this Court's authority when he issued the subpoena to AOA that prompted this action, signing it and listing his contact details on the subpoena. *AOA Memo in Support of Motion to Quash and For Sanctions, Exhibit 1 (Docket # 4)*. Attorney Bischoff also represented Dr. Jallali in the underlying matter, in furtherance of which he issued the subpoena from this Court. Dr. Jallali, therefore, had three weeks' notice of the hearing, and should not be heard to complain otherwise.

B. Dr. Jallali Ignores the Presence of His Attorney

Dr. Jallali's filings in this matter ignore the presence of his counsel. His complaints about the allegedly short – actually twenty-one days' – notice he had to arrange to appear at the December 7, 2011 hearing are conspicuously silent on why his attorney failed to attend. Attorney Bischoff corresponded with undersigned counsel about the subpoena and the hearing. *Exhibit 1*. He has not, however, responded to this Court regarding AOA's request for sanctions against him and his client.

C. Dr. Jallali Has Rejected His Opportunities to Meaningfully Access this Court

The irony of Dr. Jallali's complaint that he is not receiving his "constitutional right to meaningful access to the courts" is thick. In this action alone he has:

- Failed to appear at the sole hearing in the matter;
- Failed to respond to AOA's fee petition in support of its request for sanctions against him; and
- Failed to even Notice for hearing his own Motion to Stay Proceedings.

Meanwhile, AOA continues to incur costs because it is obligated to respond to Dr. Jallali's filings, here and in the Seventh Circuit.

III. CONCLUSION

This Court should not facilitate Dr. Jallali's continued abuse of the judicial system by granting his Motion to Stay Proceedings. The only item remaining before the Court is AOA's fee petition in support of its Motion for Sanctions. That Motion is fully-briefed and ripe for decision. AOA respectfully requests that this Court deny Dr. Jallali's Motion to Stay Proceedings.

Respectfully Submitted,

/s/ Peter J. Preston

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Counsel for American Osteopathic Association

CERTIFICATE OF SERVICE

I certify that on January 31, 2012, I served a copy of the foregoing on the following by electronic mail and United States Postal Service, at the listed addresses.

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/s/ Peter J. Preston

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EXHIBIT 1

4835-2386-9966, v. 1

Preston, Peter J

From: C <cyrusismylawyer@yahoo.com>
Sent: 30 November, 2011 9:58 AM
To: Preston, Peter J
Subject: Re: Jallali v NSU - AOA Subpoena

Peter,

Please be advised that all depositions are postponed pending a decision on our motion for reconsideration in the Southern Dist. of Florida.

Also please cancel any hearings at this time (Dec. 7) until there is a disposition of our motion before the Florida Court.

Thank you,

Cyrus A. Bischoff, Esq.

BISCHOFF & ASSOCIATES, P.A.

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-Member of the District of Columbia Bar (District of Columbia Court of Appeals) -Member of the Supreme Court of the United States -Member of Federal Circuit Court of Appeals -Member of the U.S. District Court for the Southern District of Florida -Member of the U.S. Court of International Trade (New York, N.Y.) -Member of American Trial Lawyers Association (American Association of Justice)

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On Nov 29, 2011, at 2:05 PM, "Preston, Peter J" <ppreston@hww-law.com> wrote:

> Dear Counsel,

>

> Please see the attached.

>

> Regards,

>

> Peter

>

> Peter J. Preston

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> <2011-11-29-Preston-Bischoff.pdf>

> <001-2011-11-14-AOA-Motion to Quash.pdf> <004-2011-11-14-AOA-Memo

> Support Motion Quash.pdf> <006-2011-11-16-AOA-Notice of Motion.pdf>

> <007-2011-11-29-AOA-Notice Supplemental Authority.pdf>